

**ORDINANCE NO. 10-23**

ORDINANCE REZONING PROPERTY FROM R-1 (ONE FAMILY DISTRICT) TO R-2 (ONE AND TWO-FAMILY RESIDENTIAL DISTRICT) AND GRANTING A VARIANCE PERMIT TO ALLOW 3 PARKING SPACES, WHERE AT LEAST 4 PARKING SPACES ARE REQUIRED, AND TO ALLOW A WEST SIDE SETBACK OF 7.3 FEET, WHERE AT LEAST 7.5 FEET ARE REQUIRED, FOR THE EXISTING PORTION OF THE FIRST RESIDENCE, AND ALLOW A REAR SETBACK OF 3.2 FEET FOR THE SECOND RESIDENCE, WHERE AT LEAST 25 FEET ARE REQUIRED, CONTRA TO HIALEAH CODE § 98-546, 98-547 AND 98-2189(19). **PROPERTY LOCATED AT 41 EAST 47 STREET, HIALEAH, FLORIDA.** REPEALING ALL ORDINANCES OR PARTS OF ORDINANCES IN CONFLICT HEREWITH; PROVIDING PENALTIES FOR VIOLATION HEREOF; PROVIDING FOR A SEVERABILITY CLAUSE; AND PROVIDING FOR AN EFFECTIVE DATE.

**WHEREAS**, the Planning and Zoning Board at its meeting of February 24, 2010 recommended approval of this ordinance; and

**WHEREAS**, the petitioner proffered to remove the existing CBS and wood frame utility shed located in the northeast corner of the property.

NOW, THEREFORE, BE IT ORDAINED BY THE MAYOR AND THE CITY COUNCIL OF THE CITY OF HIALEAH, FLORIDA, THAT:

**Section 1:** The below-described property is hereby rezoned from R-1 (One Family District) to R-2 (One and Two-Family Residential District) and is hereby granted a variance permit to allow 3 parking spaces, where at least 4 parking spaces are required, and to allow a west side setback of 7.3 feet, where at least 7.5 feet are required, for the existing portion of the first residence, and allow a rear setback of 3.2 for the second

residence where at least 25 feet are required, contra to Hialeah Code §§ 98-546, 98-547 and 98-2189(19), which provide in pertinent part: "In the R-2 one- and two-family residential district, there shall be side yards, the width of each to be not less than ten percent of the average width of the lot, but in no case shall each such side yard be less than 7½ feet in width", "In the R-2 one- and two-family residential district, every principal residential building shall provide a rear yard with a minimum depth of 25 feet to a rear lot line . . ."and "*Residential developments. a. Low density.* Two parking spaces for each dwelling unit.", respectively. Property located at 41 East 47 Street, Hialeah, Miami-Dade County, Florida and legally described as follows:

THE WEST 50 FEET OF THE EAST 400 FEET OF THE SOUTH ONE-HALF OF TRACT 5, REVISED PLAT OF WEST MIAMI HEIGHTS, ACCORDING TO THE PLAT THEREOF, AS RECORDED IN PLAT BOOK 32, PAGE 69, OF THE PUBLIC RECORDS OF MIAMI-DADE COUNTY, FLORIDA, THE SAME LOT AS LOT 18, BLOCK 5, WEST MIAMI HEIGHTS NO. 1, ACCORDING TO THE PLAT THEREOF, AS RECORDED IN PLAT BOOK 9, PAGE 131, OF THE PUBLIC RECORDS OF MIAMI-DADE COUNTY, FLORIDA.

**Section 2: Repeal of Ordinances in Conflict.**

All ordinances or parts of ordinances in conflict herewith are hereby repealed to the extent of such conflict.

**Section 3: Penalties.**

Every person violating any provision of the Code or any ordinance, rule or regulation adopted or issued in pursuance thereof shall be assessed a civil penalty not to exceed \$500.00 within the discretion of the court or administrative tribunal having jurisdiction. Each act of violation and each day upon which any such violation shall occur shall constitute a separate offense. In addition to the penalty prescribed above, the

city may pursue other remedies such as abatement of nuisance, injunctive relief, administrative adjudication and revocation of licenses or permits.

**Section 4: Severability Clause.**

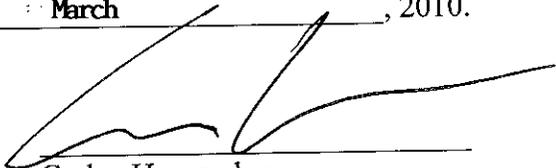
If any phrase, clause, sentence, paragraph or section of this ordinance shall be declared invalid or unconstitutional by the judgment or decree of a court of competent jurisdiction, such invalidity or unconstitutionality shall not affect any of the remaining phrases, clauses, sentences, paragraphs or sections of this ordinance.

**Section 5: Effective Date.**

This ordinance shall become effective when passed by the City Council and signed by the Mayor or at the next regularly scheduled City Council meeting, if the Mayor's signature is withheld or if the City Council overrides the Mayor's veto.

PASSED and ADOPTED this 23rd day of March, 2010.

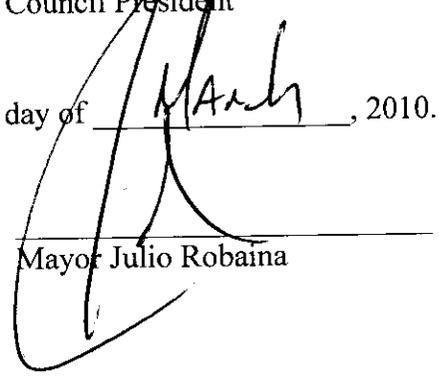
THE FOREGOING ORDINANCE  
OF THE CITY OF HIALEAH WAS  
PUBLISHED IN ACCORDANCE  
WITH THE PROVISIONS OF  
FLORIDA STATUTE 166.041  
PRIOR TO FINAL READING.

  
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Carlos Hernandez  
Council President

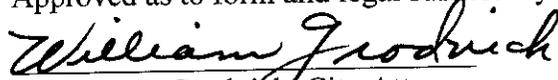
Attest:

Approved on this 26 day of March, 2010.

  
\_\_\_\_\_  
Rafael E. Granado, City Clerk

  
\_\_\_\_\_  
Mayor Julio Robaina

Approved as to form and legal sufficiency:

  
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William M. Grodnick, City Attorney

Ordinance was adopted by a 6-0 vote with Councilmembers, Caragol, Casals-Muñoz, Cue, Gonzalez, Hernandez and Yedra voting "Yes", Councilmember Garcia-Martinez absent.